

WRITTEN STATEMENT OF
NANCY BAKER
ON
POOL & SPA SAFETY FOR CHILDREN

May 3, 2006

Subcommittee Hearing

Senate Commerce, Science and Transportation
Subcommittee on Consumer Affairs, Product Safety and Insurance

WRITTEN STATEMENT OF NANCY BAKER

My name is Nancy Baker. It is my pleasure to testify before the Senate Consumer Affairs, Product Safety and Insurance Subcommittee today and I thank you for allowing me to address the important topic of pool and spa safety. Although it is a great privilege to be given the opportunity to speak, I am so very sorry for the circumstances that have brought me here. In June of 2002, nearly four years ago, my seven year old daughter – one of a set of twins – lost her life in a spa. Her death has brought me here, with both a deep sense of regret and a deep sense of duty to communicate to you how critical it is for the federal government to intervene in a situation which is costing this country hundreds of young lives each and every year. And it is a fact that the vast majority of deaths in pools and spas are preventable. I have come here to impress upon you the enormous cost of losing a child to drowning and to plead with you to give thoughtful consideration to what the government must do to assist in reducing the number of lives lost in drowning accidents.

On a magnificent Saturday afternoon I attended a pool party with my five daughters, being held in honor of a large group of soon to be high school graduates. My oldest child was one of them. My three youngest children entered the pool when we arrived. All of them had been swimming unassisted for at least four years, were members of our neighborhood swim and dive team and had grown up with a pool in their own back yard. I stood on the pool deck at this event, providing what I then thought was sufficient supervision for my children. At one point I realized that only two of mine were in the water and-after scanning the pool – made an assumption that one, named Graeme, had gone inside the home we were visiting. There were many people both in and around the water, there was music and food and distraction. There was no lifeguard, nor any one person whose sole job was to watch the water.

Moments later my eleven year old daughter came running from one end of the pool towards me, with terror, horror, in her eyes. She told me that her sister Graeme was in the hot tub. I ran with her to the edge of this hot tub, which was directly connected to the pool itself and accessible from the shallow end through a small opening in the edge of the pool. Looking down I saw nothing but dark and bubbling water. She insisted that Graeme was there, frantically crying and pointing into the tub. I jumped in, put my head underwater and what I saw is beyond what I can describe. Her eyes were pinched closed, her hair and limbs moving with the current of the water from all the jets on the side. I tried to pull her up, I pulled with all of my strength and in the confusion and panic I could not raise her up. I remember thinking that she had been murdered, that someone had attached her to the bottom somehow – it seemed the only viable explanation for why I couldn't get her up to the surface. I dove down, again and again, screaming for help until finally I gave up and ran to a grassy area adjacent to the deck and just collapsed in agony. I truly, in those moments just lost my mind in fear, confusion and the horror of what was unfolding. I perceived everything in this strange slow motion and I lost the ability to hear. I only recall Graeme's twin telling me that she had found her underwater, but that she was just pretending, so everything would be alright. Oh, how desperately I wished that to be true. But by that time two adults had brought her out and they were rolling her from side to side, attempting to provide CPR to her. People were surrounding me, they had brought the young girls to me and put them in my lap to stop them from running over to their sister's side. Finally, paramedics

arrived and I was reassured that Graeme's heart was beating, that there was hope. She was flown to the hospital and I was told I'd be driven there to meet her. When I arrived, I was taken into a small room in the emergency department. I was still wet, wrapped in a blanket which I used to cover my head. I wanted to disappear and deny that all of this was happening. Shortly after I heard the door open, and I could see from under the blanket many feet. And I heard a voice say the impossible. That my daughter, Graeme, was gone and that they had done everything they could to revive her. It was a moment that ended many lives, as for me and my family there was one life we knew before her death and quite another that we have lived since. I was asked if I wanted to see her and in truth I was almost too frightened to know how to answer that question. It had never, ever crossed my mind that I would one day be asked if I desired to see my child's body. I did, and I am grateful for those moments that I was able to hold her one last time, to rock her in my arms and to say goodbye in such a painful way. I look to the day when I am with her again.

Graeme died because she became entrapped, pinned underwater, on the drain of the spa she was playing in. Her body was held there by hundreds of pounds of suction force. It took two adults to pull her off of this drain, the force so great that the cover of the drain cracked in half removing her. Over the days and months since her death I have come to accept that she is gone. I cannot, however, accept the circumstances that took her life. This spa had been serviced by pool professionals the day before my daughter swam in it. It was considered to be in working order. In fact, this spa posed a tremendous hazard as do spas and pools around this country today. There were voluntary guidelines that had been issued by the CPSC at this time, but none of the recommendations that were outlined in those guidelines were in place in the spa where she died. Nor was there anything to compel the homeowners, or service company, to insist that those safety measures be installed. And because of the voluntary nature of those guidelines this beautiful, healthy, magnificent little girl found herself, in horror and panic, with her buttocks pinned at the bottom of this spa, unable to come up for air. I have since discovered that this has been occurring for decades, dozens of stories, one more gruesome and tragic than the next. In August of 2000, a twelve year old boy drowned after being sucked, head-first into an intake pipe in a resort swimming pool, requiring six hours to remove him after the pump had been shut down. In that same month a ten year old died three days after his fingers were caught in the drain of his family's whirlpool spa. In February of 1996, in Florida, a six year old was sucked into the drain of a spa. When the father freed him, he also brought up a chunk of concrete and the drain cover still attached to the child's stomach. What is critical to realize is that in these instances, the pools were in compliance with the local building codes at the time. Therefore, I am here as a parent of one of these victims to beg of you to please exert the influence you have and insist that the codes within these states be examined and written to require that certain measures be taken to end these deadly accidents. Were pools and spas required to have multiple drains the suction force at each one would be lessened, provided neither were blocked by debris or objects. Were anti-entrapment drain covers used to replace the flat grate covers which were and still are used to cover drains, it would be more difficult for a body part to seal the drain-not impossible-but less likely. And, lastly, if a device called a safety vacuum release system were installed the pump would automatically shut off, releasing a victim should an entrapment occur. Each of these layers is meant to provide protection should the prior one fail for any reason. And this is the answer to the danger of entrapment. Were these the standard, as the International Building Codes have adopted, entrapments would cease to occur. Yet we face a situation in this

country where the pool and spa industry resist the layers of protection that are needed to prevent entrapment. I have read articles indicating that due to the relatively small number of children who suffer death and injury that entrapment is not a serious threat and therefore does not warrant a shift in building and maintenance practices. Furthermore, the industry has undertaken intense lobbying efforts throughout the United States urging that local building code officials NOT adopt these layers of protection modeled after International Building Codes. My family and I applaud and fully support the legislation that Congresswoman Debbie Wasserman Schultz is introducing in the House of Representatives, as it is intended to provide incentives for the states to provide safe building codes consistent with the recommendations of the independent International Building Codes. Entrapment is a mechanical problem, not an "accident". It has an explicit solution which, if implemented, will save young lives. When a repairman comes to my home to work on my furnace, or appliance, there are explicit codes that he must follow in order to leave that product working in a way that ensures the safety of the people using it. When a pool is serviced, the codes which guide the work being done leave pools and spas in dangerous conditions, leaving people using them vulnerable to death and injury. We must insist that this practice change, face the very real fact that there is an inherent danger in pools and that there are proven ways to reduce the incidences of drownings. The fourth layer of protection which this legislation calls for is four sided barrier fencing around pools- isolating the water from the entrances and exits of the home. The vast majority of drownings occur in backyard pools, usually due to a momentary lapse of supervision, where a toddler slips out of the house without a caregiver noticing. Within two minutes of being in the water, that child has nearly drowned and within four most likely will not survive. As conscientious and responsible as all parents try to be, it is human nature to have momentary distractions and we MUST, as a society, insist that we put something between our children and the water to prevent their access to a great fascination-water. To put this loss of life in perspective I would like to share with you some comparative and tragic statistics. In 2003 there were 482 American soldiers who lost their lives in Iraq. In that same year, 782 children died in accidental drownings. Also, in 2003, 2,408 soldiers were wounded in Operation Iraqi Freedom. In 2004, approximately 3,700 children were treated in emergency rooms for near-drownings. Roughly half of these deaths and injuries occurred in pools and spas. With the compassion and attention that we give all loss of life, I ask each of you to please seriously consider supporting measures which will significantly reduce drowning accidents. The numbers, the emotional and medical cost, the collective heartbreak when a child dies is simply too immense to ignore.

In closing, it gives me great hope that this hearing is being held today. From a personal perspective it is healing to sense that from a loss that has taken such a tremendous toll on our family that the possibility exists that some good may come from a senseless and utterly preventable death. I have faith that my angel, Graeme, is helping to urge us along. I am certain that she gives me the strength to go on without her, but always on behalf of her and the others whose lives were cut short in this way. Those children knew that something was terribly, terribly wrong as they died. We all have a responsibility now to take that knowledge of what has gone so wrong and use the technology now available and not merely suggest it, or recommend it, but rather demand that solutions be implemented to prevent further loss of life. Yes, there will be cost associated with these changes. But I can assure that whatever the cost in dollars and cents, it cannot possibly compare with the cost of losing that most precious and treasured person in our lives, our children. This experience leaves you physically, emotionally and even, for a time,

spiritually bankrupt and it is a very long process toward becoming an intact human being again. Please, if you will, help me to prevent others from ever having to know this journey through grief. It is like no other. I would consider it a privilege to be a partner in those efforts. The work and commitment of Safe Kids, of Congresswoman Wasserman Schultz and of the CPSC has been an inspiration to me. As well, and always, I too am inspired by the goodness and spirit of my child, Graeme, and her loving and supportive sisters. Thank you so very much for this opportunity to testify here today. I do so hope that I have been able to convey to you, on a personal level, how very important your time and attention to pool and spa safety is.